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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/521,543 | 01/14/2005 | Max Segerljung | 821-68 | 9145 |
| 7590 Dilworth & Barrese 333 Earle Ovington Boulevard Suite 702 Uniondale, NY 11553 | | | EXAMINER HURLEY, KEVIN | |
| | | | ART UNIT 3611 | PAPER NUMBER |
| | | | MAIL DATE 05/09/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,543

Applicant(s)

SEGERLJUNG, MAX

Examiner

Kevin Hurley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 6-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group III, claims 6-20 in the reply filed on 21 March 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 1-5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 21 March 2007.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Regarding claims 6-20, the phrase "mast-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

In claims 7, 8, and 10 it is unclear if "a mast-like beam" is the same one recited in claim

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6.

In claim 14 line 1 it is unclear what "it" is referring to.

Regarding claim 12, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 17-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 17 the claim recites that "the forks are arranged laterally displaceably on a frame with respect to the vehicle's normal driving direction, and that the vehicle comprises power means arranged to give rise to displacement of the forks along the frame." No structure is disclosed which would allow this to happen. An actuator 11 is shown schematically but there is no disclosure as to how the forks are mounted to frame 10 and how the actuator would move both of them.

Regarding claim 20, there is no disclosure as to how the "power means maneuverably arranged to pivot the driver's seat around said vertical axis relative to the chassis for alignment of the driver's seat relative to the chassis depending on the prevailing operation of the vehicle

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and/or the desire of the driver.” There is no structure disclose which performs this function, nor is it clear how the device would coordinate such movement.

Drawings

8. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “power means maneuverably arranged to pivot the driver's seat around said vertical axis relative to the chassis for alignment of the driver's seat relative to the chassis depending on the prevailing operation of the vehicle and/or the desire of the driver.” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 6-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Barney et al. 6,779,961.

Barney et al. discloses a vehicle comprising:

a chassis 12,

at least three wheels 14 arranged to support the chassis while resting on the ground, and

a lifting unit 26 connected to the chassis having one or more members 20 arranged to carry loads and a power arrangement to raise and lower the load-carrying members relative to the chassis,

wherein the lifting unit is carried by the chassis via a beam, that is pivotally connected to the chassis about a first substantially horizontal axis , and that the power arrangement comprises first power means arranged to pivot the beam around this axis relative to the chassis;

wherein the lifting unit is carried by the chassis via the beam, and the beam is connected to the chassis in the vicinity of one longitudinal side (13) of the vehicle as seen in its normal driving direction;

wherein the lifting unit is carried by the chassis via the beam, the beam comprises several elongated beam members that are displaceable relative to each other in the longitudinal direction of the beam, and that the power arrangement comprises second power means arranged to displace said beam members relative to each other to change the length of the beam;

wherein the lifting unit is carried by the chassis via the beam, the load-carrying members are arranged in the vicinity of the free end of the beam that is distant from the chassis, the load-carrying members are pivotably connected to the beam about a substantially horizontal second axis, and the power arrangement comprises a third power means arranged to cause pivoting of the load-carrying members or a part carrying these about said second horizontal axis; wherein the control device is arranged to coordinate the control of the first, second and third power means to achieve the desired movement pattern in a vertical plane of the load-carrying members height-wise, length-wise and in the rotating direction; and to carry out coordination so that the carrying members maintain a constant angle relative to a horizontal during displacement movement and/or pivoting movements of the beam;

the beam is arranged at a rear end of the vehicle in the vehicle's normal driving direction with its connection to the chassis via its first horizontal axis for pivoting relative to the chassis;

wherein comprises a device for attaching the lifting unit's load-carrying members in the vicinity of the free end of the beam which is distant to the chassis, and this device comprises a member connected to said end of the beam which is arranged to extend towards the vehicle's centre as seen in its normal driving direction to maintain an attaching point for the load-carrying members at the attaching device substantially centered relative to a horizontal longitudinal axis

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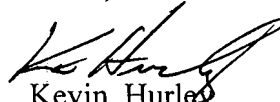
of the vehicle extending in said normal driving direction through the vehicles centre of gravity;

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Hurley whose telephone number is 571-272-6646. The examiner can normally be reached on Monday-Friday 9:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Kevin Hurley
Primary Examiner
Art Unit 3611

May 3, 2007